

## Senate Bill No. 349

### CHAPTER 544

An act to amend Section 1317.1 of the Health and Safety Code, relating to emergency services.

[Approved by Governor September 27, 1999. Filed  
with Secretary of State September 28, 1999.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 349, Figueroa. Emergency services and care.

Existing law provides for the regulation of health facilities, including general acute care hospitals and acute psychiatric hospitals. For purposes of these provisions, existing law defines emergency services and care as medical screening, examination, and evaluation by a physician, or, to the extent permitted by applicable law, by other appropriate personnel under the supervision of a physician, to determine if an emergency medical condition or active labor exists and, if it does, the care, treatment, or surgery by a physician necessary to relieve or eliminate the emergency medical condition, within the capability of the facility.

This bill would define emergency services and care to include additional screening, examination, and evaluation by a physician, or other personnel to the extent permitted by applicable law and within the scope of their licensure and clinical privileges, to determine if a psychiatric emergency medical condition exists as provided under the bill. The bill would provide that this definition of emergency services and care shall not apply to services provided under managed care contracts with the Medi-Cal program to the extent those services are excluded from coverage under the contract.

This bill would state that these provisions defining emergency services and care are a clarification of the definition of emergency services and care and a clarification of an existing responsibility and not the addition of a new responsibility. This bill would also provide that those provisions defining emergency services and care do not affect the scope of licensure or clinical privileges for clinical psychologists or other medical personnel.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans administered by the Commissioner of Corporations. Willful violation of any of these provisions is a crime.

Existing law requires a health care service plan to reimburse providers for emergency services and care provided to its enrollees until the care results in stabilization of the enrollee, except under certain conditions, and requires the health care service plan to

assume responsibility for the care of the patient if there is a disagreement between the plan and the provider regarding the need for necessary medical care. For purposes of this provision, emergency services and care is as defined under the provisions governing health facilities.

This bill, as discussed above, would change the definition of emergency care and services. Since the willful violation of the provisions governing a health care service plan is a crime, this bill would impose a state-mandated local program by changing the definition of a crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*The people of the State of California do enact as follows:*

SECTION 1. Section 1317.1 of the Health and Safety Code is amended to read:

1317.1. Unless the context otherwise requires, the following definitions shall control the construction of this article and Section 1371.4:

(a) (1) “Emergency services and care” means medical screening, examination, and evaluation by a physician, or, to the extent permitted by applicable law, by other appropriate personnel under the supervision of a physician, to determine if an emergency medical condition or active labor exists and, if it does, the care, treatment, and surgery by a physician necessary to relieve or eliminate the emergency medical condition, within the capability of the facility.

(2) (A) “Emergency services and care” also means an additional screening, examination, and evaluation by a physician, or other personnel to the extent permitted by applicable law and within the scope of their licensure and clinical privileges, to determine if a psychiatric emergency medical condition exists, and the care and treatment necessary to relieve or eliminate the psychiatric emergency medical condition, within the capability of the facility.

(B) For the purposes of Section 1371.4, emergency services and care as defined in this paragraph shall not apply to services provided under managed care contracts with the Medi-Cal program to the extent that those services are excluded from coverage under the contract.

(C) This paragraph does not expand, restrict, or otherwise affect, the scope of licensure or clinical privileges for clinical psychologists or other medical personnel.

(b) “Emergency medical condition” means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in any of the following:

- (1) Placing the patient’s health in serious jeopardy.
- (2) Serious impairment to bodily functions.
- (3) Serious dysfunction of any bodily organ or part.

(c) “Active labor” means a labor at a time at which either of the following would occur:

(1) There is inadequate time to effect safe transfer to another hospital prior to delivery.

(2) A transfer may pose a threat to the health and safety of the patient or the unborn child.

(d) “Hospital” means all hospitals with an emergency department licensed by the state department.

(e) “State department” means the State Department of Health Services.

(f) “Medical hazard” means a material deterioration in medical condition in, or jeopardy to, a patient’s medical condition or expected chances for recovery.

(g) “Board” means the Medical Board of California.

(h) “Within the capability of the facility” means those capabilities which the hospital is required to have as a condition of its emergency medical services permit and services specified on Services Inventory Form 7041 filed by the hospital with the Office of Statewide Health Planning and Development.

(i) “Consultation” means the rendering of an opinion, advice, or prescribing treatment by telephone and, when determined to be medically necessary jointly by the emergency and specialty physicians, includes review of the patient’s medical record, examination, and treatment of the patient in person by a specialty physician who is qualified to give an opinion or render the necessary treatment in order to stabilize the patient.

(j) A patient is “stabilized” or “stabilization” has occurred when, in the opinion of the treating provider, the patient’s medical condition is such that, within reasonable medical probability, no material deterioration of the patient’s condition is likely to result from, or occur during, a transfer of the patient as provided for in Section 1317.2, Section 1317.2a, or other pertinent statute.

SEC. 2. (a) It is the intent of the Legislature in amending Section 1317.1 of the Health and Safety Code in Section 1 of this act to clarify the meaning of Section 1317.1 of the Health and Safety Code.

(b) The Legislature finds and declares all of the following:

(1) Many health care service plans, their subcontractors, emergency physicians, and emergency departments have been interpreting Section 1317.1 of the Health and Safety Code to define emergency services and care to include evaluation and care to assess



and stabilize a psychiatric medical emergency. This interpretation is also being followed by state regulatory agencies and the federal government.

(2) However, some health care service plans and their subcontractors have denied reimbursement for a psychiatric evaluation if the patient also had an evaluation for a nonpsychiatric medical emergency during the same emergency department visit.

(c) The amendments to Section 1317.1 of the Health and Safety Code in Section 1 of this act do both of the following:

(1) Constitute a clarification of the definition of emergency services and care contained in Section 1317.1 of the Health and Safety Code so that health care service plans and their subcontractors do not misinterpret the statute in a manner that justifies acts similar to those described in paragraph (2) of subdivision (b).

(2) Constitute a clarification of an existing responsibility and not the addition of a new responsibility.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

